

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

KEITH W.R. LOWE

Plaintiff,

v.

CIVIL ACTION NO. 2:17-cv-02345

DR. SHERRY JOHNSON, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**

Before the Court are Defendant Daniel Conn's Motion to Dismiss, (ECF No. 24), and Defendant Donna Warden's Motion to Dismiss, (ECF No. 35). By Standing Order filed in this case on April 13, 2017, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation for disposition ("PF&R"). (ECF No. 3.) Magistrate Judge Tinsley entered his PF&R on August 13, 2018, recommending that the Court grant the two motions to dismiss, dismiss Plaintiff's state law claims against all Defendants, and leave the case referred for additional PF&Rs concerning the Eighth Amendment claims against Defendants Johnson, Rubenstein, and Ballard. (ECF No. 69.)

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's

Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Objections to the PF&R in this case were due on August 30, 2018. To date, no objections have been filed. The Court therefore **ADOPTS** the PF&R, (ECF No. 69), **GRANTS** the motions to dismiss filed by Defendants Daniel Conn and Donna Warden, (ECF Nos. 24, 35), and **DISMISSES** all of Plaintiff's state law claims against all Defendants for failure to state a claim upon which relief can be granted. The Court further **DIRECTS** the Clerk to terminate Defendants Conn and Warden from the docket and **RE-REFERS** this matter to Magistrate Judge Tinsley for further pretrial management and submission of PF&Rs.

**IT IS SO ORDERED.**

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: August 31, 2018



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THOMAS E. JOHNSTON, CHIEF JUDGE